

6/26/99 3:18:37 PM  
Page 1

**1999 DRAFTING REQUEST****Assembly Amendment (AA-ASA1-AB133)**Received: **06/23/99**Received By: **kenneda**Wanted: **As time permits**

Identical to LRB:

For: **Assembly Republican Caucus 266-1452**By/Representing: **Kratochwill**This file may be shown to any legislator: **NO**Drafter: **kenneda**

May Contact:

Alt. Drafters:

Subject: **Health - miscellaneous**Extra Copies: **TAY****Pre Topic:**

ARC:.....Kratochwill - #-,

**Topic:**

Confidentiality of health care information

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	kenneda 06/25/99	gilfokm 06/25/99	ismith 06/26/99	_____	lrb_docadmin 06/26/99		
/2	kenneda 06/26/99	gilfokm 06/26/99	jfrantze 06/26/99	_____	lrb_docadmin 06/26/99		

FE Sent For:

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KMA  
6/26  
Jb/chuk  
6/26  
<END>

6/23/99 4:23:56 PM  
Page 1

**1999 DRAFTING REQUEST****Assembly Amendment (AA-ASA1-AB133)**

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May Contact:

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1?	kenneda	1-6-25-99 kmg	IS 6/26	25/8F 6/26			

FE Sent For:

&lt;END&gt;



Passed

## WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536  
Telephone: (608) 266-1304  
Fax: (608) 266-3830  
Email: leg.council@legis.state.wi.us

DATE: June 22, 1999  
TO: REPRESENTATIVE GREGG UNDERHEIM  
FROM: Richard Sweet, Senior Staff Attorney  
SUBJECT: Proposal Regarding Confidentiality of Health Care Information

This memorandum summarizes a proposal regarding confidentiality of health care information collected by the Department of Health and Family Services (DHFS) under ch. 153, Stats. The following are the changes that the proposal would make to current law:

✓ 1. Under the proposal, all data obtained under ch. 153, Stats., would not be subject to inspection, copying or receipt under the Open Records Law. Under current law, only patient-identifiable data and health care provider-identifiable data are not subject to inspection, copying or receipt under the Open Records Law. RP 153.50(2) RP 153.55

✓ 2. One of the methods for DHFS to release data under current law is custom-designed reports. Under the proposal, for information submitted by health care providers who are not hospitals or ambulatory surgery centers, requests for data elements, other than those available for public use files, would require review and approval by a newly created Independent Review Board (IRB) before the data elements may be released in custom-designed reports. DHFS may release information that contains the name of a health care provider who is not a hospital or ambulatory surgery center only if either: (a) the IRB grants approval for the release; or (b) DHFS rules specify information that contains the name of such a provider that does not have to be reviewed and approved by the IRB prior to release. } 153.45(1)(c) (intro.)

✓ The IRB would consist of the following members: (a) a statistician or researcher; (b) a medical ethicist from the University of Wisconsin or the Medical College of Wisconsin; (c) a privacy expert; (d) a health care purchaser; and (e) the Commissioner of Insurance or his or her designee. The first four members would be appointed by the Governor. DHFS employees may not be members of the IRB. The IRB would be attached administratively to DHFS and members would serve staggered four-year terms. IRB rules must be approved by the Board on Health Care Information. 15.195(9), 153.76

✓ 3. Under the proposal, for information submitted by health care providers who are not hospitals or ambulatory surgery centers, custom-designed reports may include the patient's zip code only if at least one of the following applies: (a) other potentially identifying data elements are not released; (b) population density is sufficient to mask patient identity; (c) other potentially identifying data elements are grouped to provide population density sufficient to protect identity; or (d) multiple years of data elements are added to protect identity. 153.45(1)(c)

Note: This must be merged with #12

J. Sweet: For indiv. health care providers

✓ 4. Current law provides that the identification of patients, employers or health care providers must be protected by all necessary means with respect to release of public use data files, including the deletion of patient identifiers and the use of calculated variables and aggregated variables. The proposal adds that "all necessary means" also includes: (a) the specification of counties as to residence, rather than zip codes; (b) the use of five-year categories for age, rather than exact age; (c) not releasing information regarding a patient's race or ethnicity or dates of admission, discharge, procedures or visits; and (d) masking sensitive diagnoses or procedures by use of larger diagnostic and procedure categories. 153.45(1)(b)2.

✓ 5. Under the proposal, DHFS would be required to develop, for use by purchasers of data under ch. 153, Stats., a data use agreement that specifies data use restrictions, appropriate use of data and penalties for misuse of data, and must notify prospective and current purchasers of data of the appropriate uses. In addition, the proposal would require that a purchaser of data sign and have notarized the data use agreement. 153.50(3)(c)

✓ 6. The definition of "patient-identifiable data" in current law is expanded to include the following items, for information submitted by health care providers who are not hospitals or ambulatory surgery centers: (a) whether the patient's condition is related to employment and occurrence and place of an auto accident or other accident; (b) the date of first symptom of current illness, current injury or current pregnancy; (c) the first date of the patient's same or similar illness, if any; (d) the dates that the patient has been unable to work in his or her current occupation; (e) the dates of receipt by the patient of medical service; and (f) the patient's city. DHFS would be given authority to use calendar quarter of service, rather than date of service, in public use data files except in those instances where DHFS specifies by rule that the number of data elements included is too small to protect patient confidentiality. 153.45(1)(b)3. ✓

153.50(1)(b)2.

town or village

For information submitted by health care providers who are not hospitals or ambulatory surgery centers: (a) the patient's month and year of birth may be released in custom-designed reports; and (b) the patient's full date of birth may be used only for the purposes in s. 153.50(4), Stats., and subject to rules promulgated by DHFS. 153.50(4)(b)

153.45(1)(c)

✓ Under current law, patient-identifiable data may be released to any of the following: (a) the patient or a person granted written permission by the patient; (b) an agent of DHFS who is responsible for patient-identifiable data in DHFS, in order to store and ensure the accuracy of the data; (c) a health care provider or his or her agent, in order to ensure the accuracy of the data; (d) DHFS, for epidemiological investigations or to eliminate duplicative databases; or (e) an entity that is required by federal or state statute to obtain the data, for epidemiological purposes or to eliminate duplicative databases. The proposal would say that patient-identifiable data may be released "only" under those circumstances. Also, the first circumstance would be repealed. ✓

RP; 153.50(4)(a) /

? see 153.45(1)(c) (intro) ok

153.50 (3)(b)

✓ 7. Current law requires DHFS to remove and destroy specified data elements on the uniform patient billing forms that are received by DHFS. Under the proposal, health care providers who are not hospitals or ambulatory surgery centers would be prohibited from submitting these data elements to DHFS. For hospitals and ambulatory surgery centers, the provider could choose not to submit them or to submit them and have DHFS remove them. Also, under the proposal, the following additional items would not be submitted by health care providers who are not hospitals or ambulatory surgery centers: (a) the patient's telephone number; (b) the insured's employer's name or school name; (c) all data regarding other insureds (except as described in item 9.); (d) the patient's employer's or school name; (e) the patient's relationship to the insured; (f) the insured's identification number; (g) the insured's policy or group number; (h) the insured's date of birth and sex; and (i) the patient's marital, employment or student status.

153.50  
(3)(b)  
153.50  
(b)

RN  
153.50  
(6);  
153.50  
(6)(a)  
CR  
153.50  
(6)(b)  
+ (c)

✓ If providers submit any of the prohibited data elements, DHFS would be required to immediately return them to the providers. If the DHFS screening fails to initially detect the prohibited data elements, DHFS would be required to destroy them. 153.50 (6)(d)

✓ Under the proposal, health care providers submitting information to DHFS under ch. 153, Stats., would be immune from liability for any harm or damages resulting from either an inadvertent or negligent release of prohibited data elements while submitting data to DHFS, would be immune from liability under s. 146.84, Stats., when submitting data under ch. 153, Stats., and would be immune from liability for any harm or damages resulting from the release of any data by DHFS. 146.84(3)

D-Note

✓ 8. Under the proposal, the patient's account number would be destroyed by DHFS after verification of data by DHFS and may only be used for verification. Health care providers would be prohibited from using either of the following as a patient account number: (a) the patient's Social Security number or any substantial portion thereof; or (b) a number that is related to another patient identifying number. 153.50 (6)(e)

153.50 (3)(b) 7.

✓ 9. Under the proposal, for information submitted by health care providers who are not hospitals or ambulatory surgery centers, the name of the insured's payer or other insured's payer would be converted to a DHFS payer category code by the provider prior to submission.

153.50  
(3m)

✓ 10. Under the proposal, an employer would be prohibited from requesting release of patient-identifiable data that is specific to an employee of that employer. 153.50 (7)

✓ 11. Under current law, whoever intentionally violates specified statutes or rules on release of data collected under ch. 153, Stats., may be fined not more than \$10,000, imprisoned for not more than nine months, or both. The proposal would increase the maximum fine to \$15,000 and the maximum imprisonment to one year. 153.90 (1)

✓ 12. Under the proposal, public use data files for information submitted by health care providers who are not hospitals or ambulatory surgery centers may include only: (a) the patient's county; (b) payment source, by type; (c) the patient's age category by five-year intervals up to age 80, then a category of 80 and over; (d) the patient's procedure code; (e) the patient's diagnosis code; (f) charges per procedure code; (g) the name and address of the facility where services were rendered; (h) the patient's sex; (i) provider-specific information as specified

153.45 (1)(b)

in item 2.; (j) quarterly dates of service as specified in item 6.; and (k) other information (other than patient-identifiable data) approved by the IRB.

✓✓ 13. Under the proposal, the department may not sell or distribute databases, for individuals who are health care providers, that can be linked with the public use data files, without the approval of the IRB.

✓✓ 14. Under current law, the Board of Health Care Information consists of 11 members, including a record administrator and five representatives of health care providers, two of whom must be physicians and one of whom must be a registered nurse. The proposal would require that the other two provider members be representatives of hospitals. Of the remaining five members, the proposal would require that at least two be employer purchasers of health care.

Feel free to contact me if I can be of further assistance.

RNS:all:wu;tl;jal

153.45  
(6)  
D. Sweet:  
current  
members  
have  
these  
qualifications.

# Budget Amendments 1999- 2000

ARC

**Statement of Intent** Confidentiality of Health Care Information Package

**Legislator** Underheim

**Amendment#** 309

**Staff contact**

**Status** Pass

**Agency** DHFS

**Tax Cut** ☐

**Summary** CONFIDENTIALITY OF HEALTH CARE INFORMATION PACKAGE - See Attached

**Fiscal Impact**

**ARC Analyst**

**Request#:** 3716





## WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536  
Telephone: (608) 266-1304  
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Email: leg.council@legis.state.wi.us

DATE: June 22, 1999  
TO: REPRESENTATIVE GREGG UNDERHEIM  
FROM: Richard Sweet, Senior Staff Attorney  
SUBJECT: Proposal Regarding Confidentiality of Health Care Information

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1. Under the proposal, all data obtained under ch. 153, Stats., would not be subject to inspection, copying or receipt under the Open Records Law. Under current law, only patient-identifiable data and health care provider-identifiable data are not subject to inspection, copying or receipt under the Open Records Law.

2. One of the methods for DHFS to release data under current law is custom-designed reports. Under the proposal, for information submitted by health care providers who are not hospitals or ambulatory surgery centers, requests for data elements, other than those available for public use files, would require review and approval by a newly created Independent Review Board (IRB) before the data elements may be released in custom-designed reports. DHFS may release information that contains the name of a health care provider who is not a hospital or ambulatory surgery center only if either: (a) the IRB grants approval for the release; or (b) DHFS rules specify information that contains the name of such a provider that does not have to be reviewed and approved by the IRB prior to release.

The IRB would consist of the following members: (a) a statistician or researcher; (b) a medical ethicist from the University of Wisconsin or the Medical College of Wisconsin; (c) a privacy expert; (d) a health care purchaser; and (e) the Commissioner of Insurance or his or her designee. The first four members would be appointed by the Governor. DHFS employees may not be members of the IRB. The IRB would be attached administratively to DHFS and members would serve staggered four-year terms. IRB rules must be approved by the Board on Health Care Information.

3. Under the proposal, for information submitted by health care providers who are not hospitals or ambulatory surgery centers, custom-designed reports may include the patient's zip code only if at least one of the following applies: (a) other potentially identifying data elements are not released; (b) population density is sufficient to mask patient identity; (c) other potentially identifying data elements are grouped to provide population density sufficient to protect identity; or (d) multiple years of data elements are added to protect identity.

4. Current law provides that the identification of patients, employers or health care providers must be protected by all necessary means with respect to release of public use data files, including the deletion of patient identifiers and the use of calculated variables and aggregated variables. The proposal adds that "all necessary means" also includes: (a) the specification of counties as to residence, rather than zip codes; (b) the use of five-year categories for age, rather than exact age; (c) not releasing information regarding a patient's race or ethnicity or dates of admission, discharge, procedures or visits; and (d) masking sensitive diagnoses or procedures by use of larger diagnostic and procedure categories.

5. Under the proposal, DHFS would be required to develop, for use by purchasers of data under ch. 153, Stats., a data use agreement that specifies data use restrictions, appropriate use of data and penalties for misuse of data, and must notify prospective and current purchasers of data of the appropriate uses. In addition, the proposal would require that a purchaser of data sign and have notarized the data use agreement.

6. The definition of "patient-identifiable data" in current law is expanded to include the following items, for information submitted by health care providers who are not hospitals or ambulatory surgery centers: (a) whether the patient's condition is related to employment and occurrence and place of an auto accident or other accident; (b) the date of first symptom of current illness, current injury or current pregnancy; (c) the first date of the patient's same or similar illness, if any; (d) the dates that the patient has been unable to work in his or her current occupation; (e) the dates of receipt by the patient of medical service; and (f) the patient's city. DHFS would be given authority to use calendar quarter of service, rather than date of service, in public use data files except in those instances where DHFS specifies by rule that the number of data elements included is too small to protect patient confidentiality.

For information submitted by health care providers who are not hospitals or ambulatory surgery centers: (a) the patient's month and year of birth may be released in custom-designed reports; and (b) the patient's full date of birth may be used only for the purposes in s. 153.50 (4), Stats., and subject to rules promulgated by DHFS.

Under current law, patient-identifiable data may be released to any of the following: (a) the patient or a person granted written permission by the patient; (b) an agent of DHFS who is responsible for patient-identifiable data in DHFS, in order to store and ensure the accuracy of the data; (c) a health care provider or his or her agent, in order to ensure the accuracy of the data; (d) DHFS, for epidemiological investigations or to eliminate duplicative databases; or (e) an entity that is required by federal or state statute to obtain the data, for epidemiological purposes or to eliminate duplicative databases. The proposal would say that patient-identifiable data may be released "only" under those circumstances. Also, the first circumstance would be repealed.

7. Current law requires DHFS to remove and destroy specified data elements on the uniform patient billing forms that are received by DHFS. Under the proposal, health care providers who are not hospitals or ambulatory surgery centers would be prohibited from submitting these data elements to DHFS. For hospitals and ambulatory surgery centers, the provider could choose not to submit them or to submit them and have DHFS remove them. Also, under the proposal, the following additional items would not be submitted by health care providers who are not hospitals or ambulatory surgery centers: (a) the patient's telephone number; (h) the insured's employer's name or school name; (c) all data regarding other insureds (except as described in item 9.); (d) the patient's employer's or school name; (e) the patient's relationship to the insured; (f) the insured's identification number; (g) the insured's policy or group number; (h) the insured's date of birth and sex; and (i) the patient's marital, employment or student status.

If providers submit any of the prohibited data elements, DHFS would be required to immediately return them to the providers. If the DHFS screening fails to initially detect the prohibited data elements, DHFS would be required to destroy them.

Under the proposal, health care providers submitting information to DHFS under ch. 153, Stats., would be immune from liability for any harm or damages resulting from either an inadvertent or negligent release of prohibited data elements while submitting data to DHFS, would be immune from liability under s. 146.84, Stats., when submitting data under ch. 153, Stats., and would be immune from liability for any harm or damages resulting from the release of any data by DHFS.

8. Under the proposal, the patient's account number would be destroyed by DHFS after verification of data by DHFS and may only be used for verification. Health care providers would be prohibited from using either of the following as a patient account number: (a) the patient's Social Security number or any substantial portion thereof; or (b) a number that is related to another patient identifying number.

9. Under the proposal, for information submitted by health care providers who are not hospitals or ambulatory surgery centers, the name of the insured's payer or other insured's payer would be converted to a DHFS payer category code by the provider prior to submission.

10. Under the proposal, an employer would be prohibited from requesting release of patient-identifiable data that is specific to an employee of that employer.

11. Under current law, whoever intentionally violates specified statutes or rules on release of data collected under ch. 153, Stats., may be fined not more than \$10,000, imprisoned for not more than nine months, or both. The proposal would increase the maximum fine to \$15,000 and the maximum imprisonment to one year.

12. Under the proposal, public use data files for information submitted by health care providers who are not hospitals or ambulatory surgery centers may include only: (a) the patient's county; (b) payment source, by type; (c) the patient's age category by five-year intervals up to age 80, then a category of 80 and over; (d) the patient's procedure code; (e) the patient's diagnosis code; (f) charges per procedure code; (g) the name and address of the facility where services were rendered; (h) the patient's sex; (i) provider-specific information as specified

in item 2.; (j) quarterly dates of service as specified in item 6.; and (k) other information (other than patient-identifiable data) approved by the IRB.

13. Under the proposal, the department may not sell or distribute databases, for individuals who are health care providers, that can be linked with the public use data files, without the approval of the IRB.

14. Under current law, the Board of Health Care Information consists of 11 members, including a record administrator and five representatives of health care providers, two of whom must be physicians and one of whom must be a registered nurse. The proposal would require that the other two provider members be representatives of hospitals. Of the remaining five members, the proposal would require that at least two be employer purchasers of health care.

Feel free to contact me if I can be of further assistance.

RNS:all:wu;flu;jal

1999

Date (time)  
needed

~~SOON~~ SAT., 6/26, A.M.  
In edit 6/25

LRB b 1143 / 1

CAUCUS BUDGET AMENDMENT D-NOTE

[ONLY FOR CAUCUS]

DAK: King:

See form AMENDMENTS — COMPONENTS & ITEMS.

CAUCUS AMENDMENT  
TO ASSEMBLY SUBSTITUTE AMENDMENT 1  
TO 1999 ASSEMBLY BILL 133

>>FOR CAUCUS SUPERAMENDMENT — NOT FOR INTRODUCTION<<

At the locations indicated, amend the substitute amendment as follows:

✓ #. Page 24, line 9.: after that line insert:

#. Page . . . . , line . . . . :

#. Page . . . . , line . . . . :

#. Page . . . . , line . . . . :

#. Page . . . . , line . . . . :

#. Page . . . . , line . . . . :

**1999 BILL**

1 **AN ACT** *to renumber* 153.50 (1) (a); *to renumber and amend* 153.45 (1) (b) and  
2 153.45 (1) (c); *to amend* 153.50 (1) (b) 2., 153.50 (1) (b) 3., 153.50 (1) (b) 9.,  
3 153.50 (1) (b) 10., 153.50 (3) (b) 1., 153.50 (3) (b) 2., 153.50 (3) (b) 3., 153.50 (4)  
4 (intro.) and 153.90 (1); and *to create* 15.195 (9), 153.45 (1) (b) 3., 153.45 (1) (b)  
5 4., 153.45 (1) (b) 5., 153.45 (1) (b) 6., 153.45 (1) (c) 1. to 4., 153.50 (1) (b) 14.,  
6 153.50 (1) (b) 15., 153.50 (1) (b) 16., 153.50 (1) (b) 17., 153.50 (1) (b) 18., 153.50  
7 (3) (c), 153.50 (3) (d), 153.50 (7) and 153.67 of the statutes; **relating to:** patient  
8 privacy protections in collection and dissemination of health care information  
9 and creating a privacy institutional review board.

---

***Analysis by the Legislative Reference Bureau***

Under current law, the department of health and family services (DHFS) must collect, analyze and disseminate health care information, as adjusted for case mix and severity, in language that is understandable to lay persons, in order to provide to hospitals, health care providers, insurers, consumers, governmental agencies and others information concerning health care providers and uncompensated health care services and in order to provide information to assist in peer review for the purpose of quality assurance. Among the information collected by DHFS is that contained

**BILL**

on uniform patient billing forms, as provided by health care providers. To ensure that the identity of health care patients is protected when information obtained by DHFS is disseminated, DHFS must, among other things, remove and destroy specified information on the uniform patient billing forms. This information includes the patient's name and street address; the insured's name, address and telephone number; any other insured's name, employer name and date of birth; the signature of the patient and the insured and other authorized signatures; and the signature of the physician.

Currently, DHFS must release data as standard reports, public use data files and custom-designed reports. However, DHFS may not release patient-identifiable data except to the patient or a person granted permission in writing by the patient; an agent of DHFS who is responsible for storage and ensuring the accuracy of the DHFS' data base; a health care provider or his or her agent, to ensure accuracy of information in the DHFS' data base; and staff of DHFS, or of an entity that is required by federal or state statute to obtain patient-identifiable data, for purposes of epidemiological investigation or to eliminate the need for duplicative data bases. ("Patient-identifiable data" is defined to mean the patient's medical record or chart number, control number, date of birth and employer's name; the dates of the patient's admission, discharge and principal procedure; the encrypted case identifier; the insured's policy number, date of birth and identification number; and the federal medicaid resubmission code and prior authorization number.)

This bill increases the information, received by DHFS on uniform patient billing forms under health care information requirements, that DHFS must remove and destroy. The information includes the patient's telephone number, the insured's employer's name or school name and any other insured's school name.

The bill requires DHFS to develop, for use by purchasers of health information data collected by DHFS, a data use agreement that specifies restrictions on data use, appropriate use and penalties for misuse. In addition, DHFS must notify prospective and current purchasers of data of the appropriate uses and require data purchasers to sign and notarize the data agreement.

The bill enlarges the definition of "patient-identifiable data" to include, as information that may not be released except under specified circumstances, patient account numbers; a patient's school name; the sex of the insured; the patient's employment status and occurrence and place of accident; the date of the first symptom of the patient's current illness, injury or pregnancy; the first date of the patient's same or similar illness; dates that the patient has been unable to work in his or her current occupation; and dates of receipt by the patient of medical service.

The bill prohibits DHFS from releasing under public use data files information that includes less than 30 patient admissions, discharges, procedure or visits. Also the bill increases protection for patients, employers and health care providers by requiring that counties of residence, rather than zip codes, be used; requiring the use of five-year categories for age, rather than exact age; prohibiting release of information about a patient's race or ethnicity or dates of admission, discharge, procedures or visits; and requiring masking of sensitive diagnosis and procedures by use of larger diagnostic and procedure categories.

**BILL**

The bill creates a privacy institutional review board, attached to DHFS, that consists of five members, as specified in the bill. For custom-designed reports, the bill requires that requests for data elements other than those available for public use data files require review and approval by the privacy institutional review board before release. Further, the bill limits custom-designed reports from including the patient's zip code unless other potentially identifying data elements are not released; population density is sufficient to mask patient identity; other potentially identifying data elements are grouped to provide population density sufficient to protect identity; or multiple years of data elements are added to protect identity.

Lastly, the bill increases the penalty for intentional violation of certain limitations on release of health care information and protections of patient confidentiality.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

✓ *The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

INSERT 3 - 1

30r

1 SECTION 4. 15.195 (9) of the statutes is created to read:

2 15.195 (9) PRIVACY INSTITUTIONAL REVIEW BOARD. There is created a privacy  
3 institutional review board that is attached to the department of health and family  
4 services under s. 15.03. The board shall consist of ~~5~~ members who possess the  
5 professional competence necessary to review specific research activities, as follows:

6 (a) A ~~physician or physician researcher who is employed by the department of~~  
7 ~~health and family services.~~ *the commissioner of insurance or his or her designee and the following*  
*Statistician or*

8 (b) ~~The state epidemiologist.~~ *A medical ethicist of the university of Wisconsin system or the medical college of Wisconsin*

9 (c) ~~One person to represent the subunit of the department of health and family~~  
10 ~~services that deals with health care information.~~ *An expert in issues relating to privacy*

11 (d) ~~One person to represent the subunit of the department of health and family~~  
12 ~~services that deals with supportive living, who is a researcher.~~ *"*

*appointed for 4-year terms*

*A purchaser of health care*



## BILL

## SECTION 1

22806

22806

1 ~~(e) One person who is not affiliated with the department of health and family~~  
2 ~~services and is not part of the immediate family of a person who is affiliated with the~~  
3 ~~department of health and family services, appointed for a 4-year term.~~

INSERT 4-3

4 "SECTION 2. 153.45 (1) (b) of the statutes is renumbered 153.45 (1) (b) ~~(b)(1)~~

5 (and/amended to read:

For information that is submitted by  
hospitals or ambulatory surgery centers,  
Public

6 153.45 (1) (b) ~~(b)(1)~~ <sup>Public</sup> use data files which do not permit the <sup>that</sup>  
7 identification of specific patients, employers or health care providers, as defined by

8 rules promulgated by the department. ~~No data released under this paragraph may~~

9 ~~include less than 30 patient admissions, discharges, procedures or visits.~~ The

10 identification of these groups patients, employers or health care providers shall be

11 protected by all necessary means, including the <sup>plain</sup> ~~all of the following~~

12 <sup>No A</sup> ~~1. The~~ deletion of patient identifiers and the <sup>plain</sup> ~~the~~

13 <sup>No A</sup> ~~2. The~~ use of calculated variables and aggregated variables.

14 SECTION 3. 153.45 (1) (b) 3. of the statutes is created to read:

15 153.45 (1) (b) 3. The specification of counties as to residence, rather than zip  
16 codes.

17 SECTION 4. 153.45 (1) (b) 4. of the statutes is created to read:

18 153.45 (1) (b) 4. The use of 5-year categories for age, rather than exact age.

19 SECTION 5. 153.45 (1) (b) 5. of the statutes is created to read:

20 153.45 (1) (b) 5. Not releasing information concerning a patient's race or  
21 ethnicity or dates of admission, discharge, procedures or visits.

22 SECTION 6. 153.45 (1) (b) 6. of the statutes is created to read:

23 153.45 (1) (b) 6. Masking sensitive diagnoses and procedures by use of larger  
24 diagnostic and procedure categories.

INSERT 4-24

## BILL

1 SECTION 7. 153.45 (1) (c) of the statutes is renumbered 153.45 (1) (c) (intro.) and  
2 amended to read:

3 153.45 (1) (c) (intro.) Custom-designed reports containing portions of the data  
4 under par. (b). Requests under this paragraph for data elements other than those  
5 available for public use data files under par. (b) require review and approval by the ✓  
6 privacy institutional review board before the data elements may be released. INSERT  
7 Reports under this paragraph may include the patient's zip code only if at least one 5-6  
8 of the following applies:

9 2280f SECTION 8. 153.45 (1) (c) 1. to 4. of the statutes are created to read: Of information submitted by health care  
10 2280f 153.45 (1) (c) 1. Other potentially identifying data elements are not released. providers that are not hospitals or  
11 2. Population density is sufficient to mask patient identity. ambulatory  
12 3. Other potentially identifying data elements are grouped to provide surgery  
13 population density sufficient to protect identity. 2280g ge centers

14 4. Multiple years of data elements are added to protect identity. ✓

15 SECTION 9. 153.50 (1) (a) of the statutes is renumbered 153.01 (2m). ✓

16 SECTION 10. 153.50 (1) (b) 2. of the statutes is amended to read:

17 153.50 (1) (b) 2. Patient control or account number. 2.b.

18 SECTION 11. 153.50 (1) (b) 3. of the statutes is amended to read:

19 153.50 (1) (b) 3. Patient date of birth age category. 3.c.

20 SECTION 12. 153.50 (1) (b) 9. of the statutes is amended to read:

21 153.50 (1) (b) 9. Patient's employer's name or school name. 9.i.

22 SECTION 13. 153.50 (1) (b) 10. of the statutes is amended to read:

23 153.50 (1) (b) 10. Insured's sex and date of birth. 10.j.

24 SECTION 14. 153.50 (1) (b) 14. of the statutes is created to read:

INSERT  
5-24

## BILL

## SECTION 14

1 153.50 (1) (b) <sup>b.</sup> ~~14~~ Patient's status related to employment and occurrence and  
2 place of an auto accident or other accident.

3 ~~SECTION 15. 153.50 (1) (b) 15. of the statutes is created to read:~~

4 153.50 (1) (b) <sup>c.</sup> ~~14~~ Date of first symptom of current illness, of current injury or  
5 of current pregnancy.

6 ~~SECTION 16. 153.50 (1) (b) 16. of the statutes is created to read:~~

7 153.50 (1) (b) <sup>d.</sup> ~~14~~ First date of patient's same or similar illness, if any.

8 ~~SECTION 17. 153.50 (1) (b) 17. of the statutes is created to read:~~

9 153.50 (1) (b) <sup>e.</sup> ~~14~~ Dates that the patient has been unable to work in <sup>this or her</sup> current  
10 occupation.

11 ~~SECTION 18. 153.50 (1) (b) 18. of the statutes is created to read:~~

12 ✓ 153.50 (1) (b) <sup>f.</sup> ~~14~~ Dates of receipt by patient of medical service.

INSERT 6-12

13 ~~SECTION 19. 153.50 (3) (b) 1. of the statutes is amended to read:~~

14 153.50 (3) (b) 1. The patient's name and, street address and telephone number.

15 ~~SECTION 20. 153.50 (3) (b) 2. of the statutes is amended to read:~~

16 153.50 (3) (b) 2. The insured's name, address and, telephone number and  
17 employer's name or school name.

18 ~~SECTION 21. 153.50 (3) (b) 3. of the statutes is amended to read:~~

19 153.50 (3) (b) 3. Any other insured's name, employer name and date of birth  
20 and employer's name or school name.

2280j

INSERT  
20 21

21 ~~SECTION 22. 153.50 (3) (c) of the statutes is created to read:~~

22 153.50 (3) (c) Develop, for use by purchasers of data under this chapter, a data  
23 use agreement that specifies data use restrictions, appropriate uses of data and  
24 penalties for misuse of data, and notify prospective and current purchasers of data  
25 of the appropriate uses.

## BILL

1 SECTION ~~23~~. 153.50 (3) (d) of the statutes is created to read:

2 153.50 (3) (d) Require that a purchaser of data under this chapter sign and have

3 notarized the data use agreement of the department specified in par. (c).

4 SECTION ~~24~~. 153.50 (4) (intro.) of the statutes is amended to read: <sup>renumbered 153.50(4)(a)</sup> ~~(intro.)~~ and

5 153.50 (4) ~~RELEASE OF PATIENT-IDENTIFIABLE DATA~~ <sup>(a)</sup> (intro.) Under the procedures

6 specified in sub. (5), release of patient-identifiable data may be made only to any of

7 the following:

8 SECTION 25. 153.50 (7) of the statutes is created to read:

9 153.50 (7) INFORMATION REQUESTS BY EMPLOYERS PROHIBITED. No employer may

10 request release of patient-identifiable data under sub. (4) that is specific to an

11 employe of the employer.

12 SECTION ~~26~~. 153.67 of the statutes is created to read:

13 153.67 Privacy institutional review board. The privacy institutional

14 review board shall review any request under s. 153.45 (1) (c) for data elements other

15 than those available for public use data files under s. 153.45 (1) (b). Unless the

16 privacy institutional review board approves such a request, the data elements

17 requested may not be released.

18 SECTION ~~27~~. 153.90 (1) of the statutes is amended to read:

19 153.90 (1) Whoever intentionally violates s. 153.45 (5) or 153.50 or rules

20 promulgated under s. 153.75 (1) (a) may be fined not more than \$10,000 \$15,000 or

21 imprisoned for not more than 9 months one year or both. " ✓

22

(END)

# . Page 1526, line 5; after that line insert:

revised  
Sub.

12x  
~~Section 2001~~  
CS

" (1) INITIAL APPOINTMENTS OF PRIVACY INSTITUTIONAL REVIEW BOARD. Notwithstanding the length of terms specified in section 15.195(9)(intro.) of the statutes, as created by this act, the initial members of the privacy institutional review board shall be appointed by the first day of the 4th month beginning after the effective date of this subsection for the following terms:

(a) The purchaser of health care, for a term expiring on May 1, 2002.

(b) The medical ethicist, for a term expiring on May 1, 2003.

(c) The statistician or researcher, for a term expiring on May 1, 2004. "

(End)  
ID-NOTE

INSERT 3-1 ✓

✓  
303  
" Section #. 15.195 (6) of the statutes is amended to read:

15.195 (6) BOARD ON HEALTH CARE INFORMATION. There is created a board on health care information which is attached to the department of health and family services under s. 15.03. The board shall consist of 11 members, one of whom shall be a record administrator, registered by the American Medical Record Association, and ~~5~~<sup>3</sup> of whom shall be or represent health care providers, including one registered nurse, licensed under s. 441.06, and 2 physicians, as defined in s. 448.01 (5). The State Medical Society of Wisconsin may recommend board membership for 5 physicians, one of whom the governor shall appoint. The members shall be appointed for 4-year terms.

History: 1971 c. 219; 1977 c. 29 s. 1650m (2); 1977 c. 273; 1983 a. 27; 1983 a. 109 ss. 1, 3; 1985 a. 56; 1987 a. 399; 1989 a. 102, 107; 1991 a. 250; 1993 a. 16, 168, 184, 233; 1995 a. 27 ss. 138, 139, 9126 (19); 1995 a. 225, 305; 1997 a. 27 ss. 60e to 61, 93; 1997 a. 231.

; 2 of whom shall represent  
hospitals, as defined  
in s. 50.33(2) and at least 2  
of whom shall be  
employer purchasers  
of health care  
;

(INSERT 4-3) ✓

✓ # . Page 1158, line 11 : after that line insert:

" Section # 146.84 (3) of the statutes is amended to read:

2251r

146.84 (3) DISCIPLINE OF EMPLOYEES. Any person employed by the state, any political subdivision of the state who violates s. 146.82 or 146.83 may be discharged or suspended without pay. " ✓

History: 1991 a. 39; 1993 a. 445.

, except a health care provider<sup>r</sup> that  
negligently violates s. 153.40(6)(c),

(5)

✓ # . Page 1170, line 18: after that line insert:

✓  
SECTION 2280C, CR; 153.45 (1)(b)2.

153.45(1)(b)2. For information that is submitted by health care providers other than ambulatory surgery centers, public use data files that do not permit the identification of specific patients, employers or health care providers, as defined by rules promulgated by the department. The identification of patients, employers or health care providers shall be protected by all necessary means, including the deletion of patient identifiers; the use of calculated variables and aggregated variables; the specification of counties as to residence, rather than zip codes; the use of 5-year categories for age, rather than exact age; not releasing information concerning a patient's race or ethnicity or dates of admission, discharge, procedures or



visits; and masking sensitive diagnoses and procedures by use of larger<sup>r</sup> diagnostic and procedure categories.

Public use data files under this subdivision may include only the following:

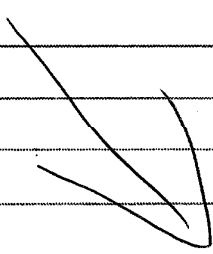
- a. The patient's county of residence.
- b. The payment source, by type.
- c. The patient's age category, by 5-year intervals up to age <sup>80</sup> and a category of 80 years<sup>rs</sup> or older.
- d. The patient's procedure code.
- e. The patient's diagnosis code.
- f. Charges assessed with respect to the procedure code.
- g. The name and address of the facility in which the <sup>patient's</sup> services were rendered.
- h. The patient's sex.

~~INSERT 5.6~~

~~Question~~ i. Information that contains the name of a health care provider that is not a hospital or ambulatory surgery center ~~may be released~~ if the privacy institutional review board first reviews and approves the release or if the department promulgates rules that specify circumstances under which the privacy institutional review board need not review and approve the release.

j. Calendar quarters of service.

k. Information other than patient-identifiable data, as defined in s. 153.50(1)(b), as approved by the privacy institutional review board.



INSERT A-24-cont

✓  
SECTION 228.01 CR; 153.45 (1)(b) 3.

in public use data files  
153.45 (1)(b) 3. The use of calendar quarters of service, rather than date of service, except under circumstances that the department specifies by rule that the number of data elements included is too small to enable protection of patient confidentiality.

End of  
INS 4-24

INSERT 5-6

not Information that contains the name of a health care provider that is not a hospital or ambulatory surgery center may be released only if the privacy institutional review board first reviews and approves the release or if the department promulgates rules<sup>s</sup> that specify circumstances under which the privacy institutional review board need not review and approve the release.

INSERT 5-14 ✓

✓  
SECTION 22809  
CR; 153.45(6)

153.45(6) The department may not sell or  
distribute data bases of information, from health  
care providers who are not hospitals or ambulatory  
surgery centers, that are able to be linked with  
public use data files, unless first approved  
by the <sup>privacy</sup> institutional review board.

INSERT 5-15

228099 ✓  
Section # 153.50 (1) (b) ~~intro.~~ of the statutes is <sup>renumbered 153.50 (1)(b) 1, and</sup> amended to read: 153.50 (1)(b) 1. (intro.),  
b., c., i. and j., as  
renumbered, are  
amended to read:

153.50 (1) (b) <sup>1.</sup> (intro.) "Patient-identifiable data" means all of the following data elements:

History: 1987 a. 399; 1989 a. 18; 1993 a. 16; 1995 a. 27 s. 9126 (19); 1997 a. 27, 231.

for information submitted  
by hospitals and  
ambulatory ~~service~~ surgery  
providing,  
centers

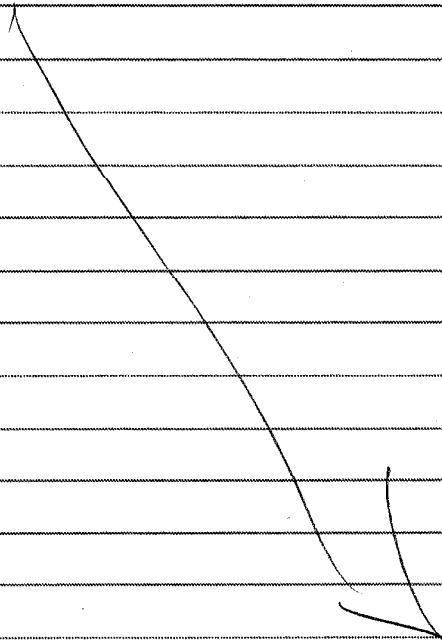
INSERT 5-24 ✓

SECTION 2280<sup>gm</sup> CR; 153.50(1)(b) 2.

153.50(1)(b)2. "Patient<sup>↓</sup>-identifiable data", for  
information submitted by health care providers who  
surgery centers,  
are not hospitals or ambulatory ~~service providers~~<sup>2</sup>  
means<sup>5</sup> all of the following data elements:

- a. Data elements specified in subd. 1. a. to 5.<sup>9.</sup>

¶ g. The patient's city, town or village.





h  
2280h  
(INSERT 6-12 cont)

Section ~~153.50~~ (2) of the statutes is ~~amended to read~~ repealed.

153.50 (2) PROHIBITION ON RELEASE. Patient identifiable Data obtained under this chapter is not subject to inspection, copying or receipt under s. 19.35 (1) and may not be released by the department except as provided in sub. (4).

History: 1987 a. 399; 1989 a. 18; 1993 a. 16; 1995 a. 27 s. 9126 (19); 1997 a. 27, 231.

(INSERT 6-20)

✓

✓

SECTION 2280<sup>1</sup>, CR; 153.50(3)(b)7.

153.50(3)(b)7. The patient's account number,  
use only as  
after verification of data by the department.

SECTION 2280 km ✓  
CR; 153.50 (3m)

(45)  
153.50 (3m) HEALTHCARE PROVIDER MEASURES

TO ENSURE PATIENT IDENTITY PROTECTION. For

~~information submitted to the department by  
health care providers that are not hospitals or  
ambulatory surgery centers, the health care  
provider~~

A health care provider that is not a hospital or  
ambulatory surgery center shall, before

submitting information required by the  
department under this chapter, convert

to <sup>a</sup> payer category code as specified by the

department any names of <sup>an</sup> insured's payer or  
other insured's payer.

INSERT ~~7-7~~ 7-7

SECTION 2280K95 ✓  
RP; 153.50 (4) (a) ✓

SECTION 2280Kr ✓  
RN; 153.50 (4) (b) to (e); 153.50 (4) (a) 1. to 4. ✓

SECTION 2280Ks ✓  
CR; 153.50 (4) (b) ✓

153.50 (4) (b) of information submitted by  
health care providers that are not hospitals or  
ambulatory surgery centers, patient-identifiable  
data that contains a patient's date of birth  
under this subsection under circumstances  
may be released only as specified by  
rule by the department.

INSERT 7-7A

✓ "SECTION 2280P ✓  
RN; 153.50 (6); 153.50 (6) (a)

SECTION 2280q ✓  
CR; 153.50 (6) (b), (c), (d) and (e)

153.50 (6) (b) The department may not  
under this chapter  
require a health care provider that is a  
hospital or ambulatory surgery center to  
submit uniform patient billing forms.



(c) A health care provider that is not a hospital or ambulatory surgery center may not submit any of the following to the department under the requirements of this chapter:

1. The data elements specified under sub. (3)(b).
2. The patient's telephone number.
3. The insured's employer's name or school name.
4. Data regarding ~~other~~ insureds other than the patient, other than the name of the insured's payer or other insured's payer.
5. The patient's employer's name or school name.
6. The patient's relationship to the insured.
7. The insured's identification number.
8. The insured's policy or group number.
9. The insured's date of birth or sex.

10. The patient's marital, employment or student status.

that is not a hospital or ambulatory surgery center

(d) If a health care provider submits

a data element that is specified in par. (c)

1. to 10., the department shall immediately return this

information to the health care provider or, if discovered later, remove and destroy the information.

(e) A health care provider may not submit information that uses any of the following as a patient account number:

1. The patient's social security number or any substantial portion of the patient's social security number.

2. A number that is related to another patient identifying number.

End of  
INS 7-7

2280r ✓ (INSERT 7-11) ✓  
Section #. 153.55 of the statutes is amended to read:

Data

153.55 ~~Protection of health care provider confidentiality. Health care provider identifiable data~~  
obtained under this chapter is not subject to inspection, copying or receipt under s. 19.35 (1). "

History: 1997 a. 231.

#. Page 1172, line 14: after that line insert:

SECTION 2283h ✓  
CR ; 153.76

(B) 153.76 RULE-MAKING BY THE PRIVACY INSTITUTIONAL

(B) Notwithstanding s. 15.01 (1r),  
review board. / the privacy institutional review board

may promulgate only those rules that are first  
reviewed and approved by the board.

on health care information



2280KV

INSERT 7-7A

P. 173

KX

Section # 153.50 (5) (b) 3. of the statutes is amended to read:

153.50 (5) (b) 3. For a person who believes that he or she is authorized under sub. (4), the action provided under s. 19.37. <sup>(a)</sup>).

History: 1987 a. 399; 1989 a. 18; 1993 a. 16; 1995 a. 27 s. 9126 (19); 1997 a. 27, 231.

WFO: move  
this SEC.

after  
SEC.  
2280KV.

2280Ku  
Section 153.50 (5) (a) (intro.) of the statutes is amended to read:

153.50 (5) (a) (intro.) The department may not release or provide access to patient-identifiable data to a person authorized under sub. (4) (a), (c), (d) or (e) unless the authorized person requests the department, in writing, to release the patient-identifiable data. The request shall include all of the following:

**History:** 1987 a. 399; 1989 a. 18; 1993 a. 16; 1995 a. 27 s. 9126 (19); 1997 a. 27, 231.

Section #. 153.50 (5) (a) 3. of the statutes is amended to read:

153.50 (5) (a) 3. For a person who is authorized under sub. (4) (a), ~~(e)~~ or ~~(d)~~ to receive or have access to patient-identifiable data, evidence, in writing, that indicates that authorization. *Be*

History: 1987 a. 399; 1989 a. 18; 1993 a. 16; 1995 a. 27 s. 9126 (19); 1997 a. 27, 28.

*WFO: Add REC. 2280Kx here. ←*

*#. Page 1170, line 22: after that line insert:*

*End of INSERT  
7-7A*

B11431

D-NOTE

I have not drafted that part of item no. 7 of  
the memorandum of June 22, 1999, from Dick Sweet  
that proposes immunity from liability <sup>under s. 146.84</sup> for harm  
or damages resulting from the release of data by  
DHFS, because under s. 146.82(2)(a) 5.

health care providers are <sup>①</sup> ~~can~~ required to submit  
patient information in response to a legally authorized  
state agency request; therefore, the immunity is  
inapplicable. Further, I drafted the immunity  
for inadvertent or negligent release to apply  
only to s. 146.84(3), because other prohibitions  
in s. 146.84 apply ~~to~~ only to knowing and

~~willful~~ release.  
willful

DAK

---

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBb1143/1dn  
DAK:kmg:ijs

June 26, 1999

I have not drafted that part of item no. 7 of the memorandum of June 22, 1999, from Dick Sweet that proposes immunity from liability under s. 146.84 for harm or damages resulting from the release of data by DHFS, because under s. 146.82 (2) (a) 5. health care providers are *required* to submit patient information in response to a legally authorized state agency request; therefore, the immunity is inapplicable. Further, I drafted the immunity for inadvertent or negligent release to apply only to s. 146.84 (3), because other prohibitions in s. 146.84 apply only to knowing and wilful release.

Debra A. Kennedy  
Managing Attorney  
Phone: (608) 266-0137

TODAY - In edit 6/26

1999 - 2000 LEGISLATURE

LRBb1143/2

DAK:kmg

ARC:.....Kratochwill - #—, Confidentiality of health care information

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 24, line 9: after that line insert:

3 "SECTION 3g. 15.195 (6) of the statutes is amended to read:

4 15.195 (6) BOARD ON HEALTH CARE INFORMATION. There is created a board on  
5 health care information which is attached to the department of health and family  
6 services under s. 15.03. The board shall consist of 11 members, one of whom shall  
7 be a record administrator, registered by the American Medical Record Association,  
8 and; 5 of whom shall be or represent health care providers, including one registered  
9 nurse, licensed under s. 441.06, and 2 physicians, as defined in s. 448.01 (5); 2 of  
10 whom shall represent hospitals, as defined in s. 50.33 (2); and at least 2 of whom shall

1 be employer purchasers of health care. The State Medical Society of Wisconsin may  
2 recommend board membership for 5 physicians, one of whom the governor shall  
3 appoint. The members shall be appointed for 4-year terms.

4 **SECTION 30r.** 15.195 (9) of the statutes is created to read:

5 15.195 (9) PRIVACY INSTITUTIONAL REVIEW BOARD. There is created a privacy  
6 institutional review board that is attached to the department of health and family  
7 services under s. 15.03. The board may not include an employee of the department  
8 of health and family services and shall consist of the commissioner of insurance or  
9 his or her designee and the following members appointed for 4-year terms:

10 (a) A statistician or researcher.

11 (b) A medical ethicist of the University of Wisconsin System or the Medical  
12 College of Wisconsin.

13 (c) An expert in issues relating to privacy.

14 (d) A purchaser of health care.”

15 **2.** Page 1158, line 11: after that line insert:

16 “**SECTION 2251r.** 146.84 (3) of the statutes is amended to read:

17 146.84 (3) DISCIPLINE OF EMPLOYEES. Any person employed by the state, any  
18 political subdivision of the state who violates s. 146.82 or 146.83, except a health care  
19 provider that negligently violates s. 153.50 (6) (c), may be discharged or suspended  
20 without pay.”

21 **3.** Page 1170, line 18: after that line insert:

22 “**SECTION 2280b.** 153.45 (1) (b) of the statutes is renumbered 153.45 (1) (b) 1.  
23 and amended to read:

1           153.45 (1) (b) 1. ~~Public~~ For information that is submitted by hospitals or  
2           ambulatory surgery centers, public use data files ~~which~~ that do not permit the  
3           identification of specific patients, employers or health care providers, as defined by  
4           rules promulgated by the department. The identification of ~~these groups~~ patients,  
5           employers or health care providers shall be protected by all necessary means,  
6           including the deletion of patient identifiers and the use of calculated variables and  
7           aggregated variables.

8           **SECTION 2280c.** 153.45 (1) (b) 2. of the statutes is created to read:

9           153.45 (1) (b) 2. For information that is submitted by health care providers  
10          other than ~~ambulatory surgery centers,~~ public use data files that do not permit the  
11          identification of specific patients, employers or health care providers, as defined by  
12          rules promulgated by the department. The identification of patients, employers or  
13          health care providers shall be protected by all necessary means, including the  
14          deletion of patient identifiers; the use of calculated variables and aggregated  
15          variables; the specification of counties as to residence, rather than zip codes; the use  
16          of 5-year categories for age, rather than exact age; not releasing information  
17          concerning a patient's race or ethnicity or dates of admission, discharge, procedures  
18          or visits; and masking sensitive diagnoses and procedures by use of larger diagnostic  
19          and procedure categories. Public use data files under this subdivision may include  
20          only the following:

- 21           a. The patient's county of residence.
- 22           b. The payment source, by type.
- 23           c. The patient's age category, by 5-year intervals up to age 80 and a category  
24          of 80 years or older.
- 25           d. The patient's procedure code.



1 e. The patient's diagnosis code.

2 f. Charges assessed with respect to the procedure code.

3 g. The name and address of the facility in which the patient's services were  
4 rendered.

5 h. The patient's sex.

6 i. Information that contains the name of a health care provider that is not a  
7 hospital or ambulatory surgery center, if the privacy institutional review board first  
8 reviews and approves the release or if the department promulgates rules that specify  
9 circumstances under which the privacy institutional review board need not review  
10 and approve the release.

11 j. Calendar quarters of service.

12 k. Information other than patient-identifiable data, as defined in s. 153.50 (1)  
13 (b), as approved by the privacy institutional review board.

14 **SECTION 2280d.** 153.45 (1) (b) 3. of the statutes is created to read:

15 153.45 (1) (b) 3. ~~The use in~~ <sup>that specify</sup> public use data files of calendar quarters of service,  
16 rather than date of service, except ~~under circumstances that~~ <sup>if</sup> the department  
17 specifies by rule that the number of data elements included is too small to enable  
18 protection of patient confidentiality. <sup>in the public use data file</sup>

19 **SECTION 2280e.** 153.45 (1) (c) of the statutes is renumbered 153.45 (1) (c)  
20 (intro.) and amended to read:

21 153.45 (1) (c) (intro.) Custom-designed reports containing portions of the data  
22 under par. (b). Of information submitted by health care providers that are not  
23 hospitals or ambulatory surgery centers, requests under this paragraph for data  
24 elements other than those available for public use data files under par. (b) 2.,  
25 including the patient's month and year of birth, require review and approval by the

1 privacy institutional review board before the data elements may be released.  
2 Information that contains the name of a health care provider that is not a hospital  
3 or ambulatory surgery center may be released only if the privacy institutional review  
4 board first reviews and approves the release or if the department promulgates rules  
5 that specify circumstances under which the privacy institutional review board need  
6 not review and approve the release. Reports under this paragraph may include the  
7 patient's zip code only if at least one of the following applies:

8 **SECTION 2280f.** 153.45 (1) (c) 1. to 4. of the statutes are created to read:

9 153.45 (1) (c) 1. Other potentially identifying data elements are not released.

10 2. Population density is sufficient to mask patient identity.

11 3. Other potentially identifying data elements are grouped to provide  
12 population density sufficient to protect identity.

13 4. Multiple years of data elements are added to protect identity.

14 **SECTION 2280g.** 153.45 (6) of the statutes is created to read:

15 153.45 (6) The department may not sell or distribute data bases of information,  
16 from health care providers who are not hospitals or ambulatory surgery centers, that  
17 are able to be linked with public use data files, unless first approved by the privacy  
18 institutional review board.

19 **SECTION 2280ge.** 153.50 (1) (a) of the statutes is renumbered 153.01 (2m).

20 **SECTION 2280gg.** 153.50 (1) (b) of the statutes is renumbered 153.50 (1) (b) 1.,  
21 and 153.50 (1) (b) 1. (intro.), b., c., i. and j., as renumbered, are amended to read:

22 153.50 (1) (b) 1. (intro.) “Patient–identifiable data”, for information submitted  
23 by hospitals and ambulatory surgery centers, means all of the following data  
24 elements:

25 b. Patient control or account number.

1 c. Patient ~~date of birth~~ age category.

2 i. Patient's employer's name or school name.

3 j. Insured's sex and date of birth.

4 **SECTION 2280gm.** 153.50 (1) (b) 2. of the statutes is created to read:

5 153.50 (1) (b) 2. "Patient-identifiable data", for information submitted by  
6 health care providers who are not hospitals or ambulatory surgery centers, means  
7 all of the following data elements:

8 a. Data elements specified in subd. 1. a. to g.

9 b. Whether the patient's condition is related to employment, and occurrence  
10 and place of an auto accident or other accident.

11 c. Date of first symptom of current illness, of current injury or of current  
12 pregnancy.

13 d. First date of patient's same or similar illness, if any.

14 e. Dates that the patient has been unable to work in his or her current  
15 occupation.

16 f. Dates of receipt by patient of medical service.

17 g. The patient's city, town or village.

18 **SECTION 2280h.** 153.50 (2) of the statutes is repealed.

19 **SECTION 2280i.** 153.50 (3) (b) 7. of the statutes is created to read:

20 153.50 (3) (b) 7. The patient's account number, after use only as verification of  
21 data by the department.

22 **SECTION 2280j.** 153.50 (3) (c) of the statutes is created to read:

23 153.50 (3) (c) Develop, for use by purchasers of data under this chapter, a data  
24 use agreement that specifies data use restrictions, appropriate uses of data and

1 penalties for misuse of data, and notify prospective and current purchasers of data  
2 of the appropriate uses.

3 **SECTION 2280k.** 153.50 (3) (d) of the statutes is created to read:

4 153.50 (3) (d) Require that a purchaser of data under this chapter sign and have  
5 notarized the data use agreement of the department specified in par. (c).

6 **SECTION 2280km.** 153.50 (3m) of the statutes is created to read:

7 153.50 (3m) HEALTHCARE PROVIDER MEASURES TO ENSURE PATIENT IDENTITY  
8 PROTECTION. A health care provider that is not a hospital or ambulatory surgery  
9 center shall, before submitting information required by the department under this  
10 chapter, convert to a payer category code as specified by the department any names  
11 of an insured's payer or other insured's payer.

12 **SECTION 2280kp.** 153.50 (4) (intro.) of the statutes is renumbered 153.50 (4)  
13 (a) (intro.) and amended to read:

14 153.50 (4) (a) (intro.) Under Except as specified in par. (b), under the  
15 procedures specified in sub. (5), release of patient-identifiable data may be made  
16 only to any of the following:

17 **SECTION 2280kq.** 153.50 (4) (a) of the statutes is repealed.

18 **SECTION 2280kr.** 153.50 (4) (b) to (e) of the statutes are renumbered 153.50 (4)  
19 (a) 1. to 4.

20 **SECTION 2280ks.** 153.50 (4) (b) of the statutes is created to read:

21 153.50 (4) (b) Of information submitted by health care providers that are not  
22 hospitals or ambulatory surgery centers, patient-identifiable data that contains a  
23 patient's date of birth may be released under this subsection only under  
24 circumstances as specified by rule by the department.

25 **SECTION 2280ku.** 153.50 (5) (a) (intro.) of the statutes is amended to read:

1           153.50 (5) (a) (intro.) The department may not release or provide access to  
2   patient-identifiable data to a person authorized under sub. (4) (a), ~~(e), (d) or (e)~~  
3   unless the authorized person requests the department, in writing, to release the  
4   patient-identifiable data. The request shall include all of the following:

5           **SECTION 2280kv.** 153.50 (5) (a) 3. of the statutes is amended to read:

6           153.50 (5) (a) 3. For a person who is authorized under sub. (4) (a), ~~(e) or (d)~~ to  
7   receive or have access to patient-identifiable data, evidence, in writing, that  
8   indicates that authorization.

✓  
INSERT 8-8

9           **SECTION 2280kx.** 153.50 (5) (b) 3. of the statutes is amended to read:

10          153.50 (5) (b) 3. For a person who believes that he or she is authorized under  
11   sub. (4) (a), the action provided under s. 19.37.”.

12          **4.** Page 1170, line 22: after that line insert:

13          **“SECTION 2280p.** 153.50 (6) of the statutes is renumbered 153.50 (6) (a).

14          **SECTION 2280q.** 153.50 (6) (b), (c), (d) and (e) of the statutes are created to read:

15          153.50 (6) (b) The department may not require under this chapter a health care  
16   provider that is a hospital or ambulatory surgery center to submit uniform patient  
17   billing forms.

18          (c) A health care provider that is not a hospital or ambulatory surgery center  
19   may not submit any of the following to the department under the requirements of  
20   this chapter:

- 21           1. The data elements specified under sub. (3) (b).
- 22           2. The patient’s telephone number.
- 23           3. The insured’s employer’s name or school name.

1           4. Data regarding insureds other than the patient, other than the name of the  
2 insured's payer or other insured's payer.

3           5. The patient's employer's name or school name.

4           6. The patient's relationship to the insured.

5           7. The insured's identification number.

6           8. The insured's policy or group number.

7           9. The insured's date of birth or sex.

8           10. The patient's marital, employment or student status.

9           (d) If a health care provider that is not a hospital or ambulatory surgery center  
10 submits a data element that is specified in par. (c) 1. to 10., the department shall  
11 immediately return this information to the health care provider or, if discovered  
12 later, shall remove and destroy the information.

13           (e) A health care provider may not submit information that uses any of the  
14 following as a patient account number:

15           1. The patient's social security number or any substantial portion of the  
16 patient's social security number.

17           2. A number that is related to another patient identifying number.

18           **SECTION 2280r.** 153.55 of the statutes is amended to read:

19           **153.55 Protection of ~~health care provider confidentiality.~~ Health care**  
20 **~~provider identifiable data~~ Data** obtained under this chapter is not subject to  
21 inspection, copying or receipt under s. 19.35 (1).".

22           **5.** Page 1172, line 14: after that line insert:

23           **"SECTION 2283g.** 153.67 of the statutes is created to read:

1       **153.67 Privacy institutional review board.** The privacy institutional  
2 review board shall review any request under s. 153.45 (1) (c) for data elements other  
3 than those available for public use data files under s. 153.45 (1) (b). Unless the  
4 privacy institutional review board approves such a request, the data elements  
5 requested may not be released.

6       **SECTION 2283h.** 153.76 of the statutes is created to read:

7       **153.76 Rule-making by the privacy institutional review board.**  
8 Notwithstanding s. 15.01 (1r), the privacy institutional review board may  
9 promulgate only those rules that are first reviewed and approved by the board on  
10 health care information.

11       **SECTION 2283k.** 153.90 (1) of the statutes is amended to read:

12       153.90 (1) Whoever intentionally violates s. 153.45 (5) or 153.50 or rules  
13 promulgated under s. 153.75 (1) (a) may be fined not more than ~~\$10,000~~ \$15,000 or  
14 imprisoned for not more than ~~9 months~~ one year or both.”.

15       **6.** Page 1526, line 5: after that line insert:

16       “(12x) INITIAL APPOINTMENTS OF PRIVACY INSTITUTIONAL REVIEW BOARD.  
17 Notwithstanding the length of terms specified in section 15.195 (9) (intro.) of the  
18 statutes, as created by this act, the initial members of the privacy institutional  
19 review board shall be appointed by the first day of the 4th month beginning after the  
20 effective date of this subsection for the following terms:

- (21)       (a) The purchaser of health care, for a term expiring on May 1, 2004.  
(22)       (b) The medical ethicist, for ~~a term~~ <sup>Terms</sup> expiring on May 1, 2004.  
(23)       (c) The statistician or researcher, for a term expiring on May 1, 2004.”.

24       (END)

and the privacy expert

**1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBb1143/2ins  
DAK:kmg:ijs

**INSERT 8-8**

2280KW

**SECTION 22.** 153.50 (5) (a) 4. (intro.) of the statutes is amended to read:

153.50 **(5)** (a) 4. (intro.) For an entity that is authorized under sub. (4) ~~(e)~~ (a)

4. to receive or have access to patient-identifiable data, evidence, in writing, of all

of the following:

**History:** 1987 a. 399; 1989 a. 18; 1993 a. 16; 1995 a. 27 s. 9126 (19); 1997 a. 27, 231.





State of Wisconsin  
1999 - 2000 LEGISLATURE

LRBb1143/2  
DAK:kmg:jf

ARC:.....Kratochwill - #—, Confidentiality of health care information

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

**CAUCUS AMENDMENT**

**TO ASSEMBLY SUBSTITUTE AMENDMENT 1,**

**TO 1999 ASSEMBLY BILL 133**

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 24, line 9: after that line insert:

3 **"SECTION 3g.** 15.195 (6) of the statutes is amended to read:

4 15.195 (6) BOARD ON HEALTH CARE INFORMATION. There is created a board on  
5 health care information which is attached to the department of health and family  
6 services under s. 15.03. The board shall consist of 11 members, one of whom shall  
7 be a record administrator, registered by the American Medical Record Association,  
8 and; 5 of whom shall be or represent health care providers, including one registered  
9 nurse, licensed under s. 441.06, and 2 physicians, as defined in s. 448.01 (5); 2 of  
10 whom shall represent hospitals, as defined in s. 50.33 (2); and at least 2 of whom shall

1 be employer purchasers of health care. The State Medical Society of Wisconsin may  
2 recommend board membership for 5 physicians, one of whom the governor shall  
3 appoint. The members shall be appointed for 4-year terms.

4 **SECTION 30r.** 15.195 (9) of the statutes is created to read:

5 15.195 (9) PRIVACY INSTITUTIONAL REVIEW BOARD. There is created a privacy  
6 institutional review board that is attached to the department of health and family  
7 services under s. 15.03. The board may not include an employee of the department  
8 of health and family services and shall consist of the commissioner of insurance or  
9 his or her designee and the following members appointed for 4-year terms:

10 (a) A statistician or researcher.

11 (b) A medical ethicist of the University of Wisconsin System or the Medical  
12 College of Wisconsin.

13 (c) An expert in issues relating to privacy.

14 (d) A purchaser of health care.”.

15 **2.** Page 1158, line 11: after that line insert:

16 “**SECTION 2251r.** 146.84 (3) of the statutes is amended to read:

17 146.84 (3) DISCIPLINE OF EMPLOYEES. Any person employed by the state, or any  
18 political subdivision of the state who violates s. 146.82 or 146.83, except a health care  
19 provider that negligently violates s. 153.50 (6) (c), may be discharged or suspended  
20 without pay.”.

21 **3.** Page 1170, line 18: after that line insert:

22 “**SECTION 2280b.** 153.45 (1) (b) of the statutes is renumbered 153.45 (1) (b) 1.  
23 and amended to read:

1           153.45 (1) (b) 1. Public For information that is submitted by hospitals or  
2           ambulatory surgery centers, public use data files which that do not permit the  
3           identification of specific patients, employers or health care providers, as defined by  
4           rules promulgated by the department. The identification of ~~these groups~~ patients,  
5           employers or health care providers shall be protected by all necessary means,  
6           including the deletion of patient identifiers and the use of calculated variables and  
7           aggregated variables.

8           **SECTION 2280c.** 153.45 (1) (b) 2. of the statutes is created to read:

9           153.45 (1) (b) 2. For information that is submitted by health care providers  
10          other than hospitals or ambulatory surgery centers, public use data files that do not  
11          permit the identification of specific patients, employers or health care providers, as  
12          defined by rules promulgated by the department. The identification of patients,  
13          employers or health care providers shall be protected by all necessary means,  
14          including the deletion of patient identifiers; the use of calculated variables and  
15          aggregated variables; the specification of counties as to residence, rather than zip  
16          codes; the use of 5-year categories for age, rather than exact age; not releasing  
17          information concerning a patient's race or ethnicity or dates of admission, discharge,  
18          procedures or visits; and masking sensitive diagnoses and procedures by use of  
19          larger diagnostic and procedure categories. Public use data files under this  
20          subdivision may include only the following:

- 21           a. The patient's county of residence.
- 22           b. The payment source, by type.
- 23           c. The patient's age category, by 5-year intervals up to age 80 and a category  
24          of 80 years or older.
- 25           d. The patient's procedure code.

1 e. The patient's diagnosis code.

2 f. Charges assessed with respect to the procedure code.

3 g. The name and address of the facility in which the patient's services were  
4 rendered.

5 h. The patient's sex.

6 i. Information that contains the name of a health care provider that is not a  
7 hospital or ambulatory surgery center, if the privacy institutional review board first  
8 reviews and approves the release or if the department promulgates rules that specify  
9 circumstances under which the privacy institutional review board need not review  
10 and approve the release.

11 j. Calendar quarters of service.

12 k. Information other than patient-identifiable data, as defined in s. 153.50 (1)  
13 (b), as approved by the privacy institutional review board.

14 **SECTION 2280d.** 153.45 (1) (b) 3. of the statutes is created to read:

15 153.45 (1) (b) 3. Public use data files that specify calendar quarters of service,  
16 rather than date of service, except if the department specifies by rule that the  
17 number of data elements included in the public use data file is too small to enable  
18 protection of patient confidentiality.

19 **SECTION 2280e.** 153.45 (1) (c) of the statutes is renumbered 153.45 (1) (c)  
20 (intro.) and amended to read:

21 153.45 (1) (c) (intro.) Custom-designed reports containing portions of the data  
22 under par. (b). Of information submitted by health care providers that are not  
23 hospitals or ambulatory surgery centers, requests under this paragraph for data  
24 elements other than those available for public use data files under par. (b) 2.,  
25 including the patient's month and year of birth, require review and approval by the

1 privacy institutional review board before the data elements may be released.  
2 Information that contains the name of a health care provider that is not a hospital  
3 or ambulatory surgery center may be released only if the privacy institutional review  
4 board first reviews and approves the release or if the department promulgates rules  
5 that specify circumstances under which the privacy institutional review board need  
6 not review and approve the release. Reports under this paragraph may include the  
7 patient's zip code only if at least one of the following applies:

8 **SECTION 2280f.** 153.45 (1) (c) 1. to 4. of the statutes are created to read:

9 153.45 (1) (c) 1. Other potentially identifying data elements are not released.

10 2. Population density is sufficient to mask patient identity.

11 3. Other potentially identifying data elements are grouped to provide  
12 population density sufficient to protect identity.

13 4. Multiple years of data elements are added to protect identity.

14 **SECTION 2280g.** 153.45 (6) of the statutes is created to read:

15 153.45 (6) The department may not sell or distribute data bases of information,  
16 from health care providers who are not hospitals or ambulatory surgery centers, that  
17 are able to be linked with public use data files, unless first approved by the privacy  
18 institutional review board.

19 **SECTION 2280ge.** 153.50 (1) (a) of the statutes is renumbered 153.01 (2m).

20 **SECTION 2280gg.** 153.50 (1) (b) of the statutes is renumbered 153.50 (1) (b) 1.,  
21 and 153.50 (1) (b) 1. (intro.), b., c., i. and j., as renumbered, are amended to read:

22 153.50 (1) (b) 1. (intro.) "Patient-identifiable data", for information submitted  
23 by hospitals and ambulatory surgery centers, means all of the following data  
24 elements:

25 b. Patient control or account number.

1 c. Patient ~~date of birth~~ age category.

2 i. Patient's employer's name or school name.

3 j. Insured's sex and date of birth.

4 **SECTION 2280gm.** 153.50 (1) (b) 2. of the statutes is created to read:

5 153.50 (1) (b) 2. "Patient-identifiable data", for information submitted by  
6 health care providers who are not hospitals or ambulatory surgery centers, means  
7 all of the following data elements:

8 a. Data elements specified in subd. 1. a. to g.

9 b. Whether the patient's condition is related to employment, and occurrence  
10 and place of an auto accident or other accident.

11 c. Date of first symptom of current illness, of current injury or of current  
12 pregnancy.

13 d. First date of patient's same or similar illness, if any.

14 e. Dates that the patient has been unable to work in his or her current  
15 occupation.

16 f. Dates of receipt by patient of medical service.

17 g. The patient's city, town or village.

18 **SECTION 2280h.** 153.50 (2) of the statutes is repealed.

19 **SECTION 2280i.** 153.50 (3) (b) 7. of the statutes is created to read:

20 153.50 (3) (b) 7. The patient's account number, after use only as verification of  
21 data by the department.

22 **SECTION 2280j.** 153.50 (3) (c) of the statutes is created to read:

23 153.50 (3) (c) Develop, for use by purchasers of data under this chapter, a data  
24 use agreement that specifies data use restrictions, appropriate uses of data and

1 penalties for misuse of data, and notify prospective and current purchasers of data  
2 of the appropriate uses.

3 **SECTION 2280k.** 153.50 (3) (d) of the statutes is created to read:

4 153.50 (3) (d) Require that a purchaser of data under this chapter sign and have  
5 notarized the data use agreement of the department specified in par. (c).

6 **SECTION 2280km.** 153.50 (3m) of the statutes is created to read:

7 153.50 (3m) HEALTHCARE PROVIDER MEASURES TO ENSURE PATIENT IDENTITY  
8 PROTECTION. A health care provider that is not a hospital or ambulatory surgery  
9 center shall, before submitting information required by the department under this  
10 chapter, convert to a payer category code as specified by the department any names  
11 of an insured's payer or other insured's payer.

12 **SECTION 2280kp.** 153.50 (4) (intro.) of the statutes is renumbered 153.50 (4)  
13 (a) (intro.) and amended to read:

14 153.50 (4) (a) (intro.) Under Except as specified in par. (b), under the  
15 procedures specified in sub. (5), release of patient-identifiable data may be made  
16 only to any of the following:

17 **SECTION 2280kq.** 153.50 (4) (a) of the statutes is repealed.

18 **SECTION 2280kr.** 153.50 (4) (b) to (e) of the statutes are renumbered 153.50 (4)  
19 (a) 1. to 4.

20 **SECTION 2280ks.** 153.50 (4) (b) of the statutes is created to read:

21 153.50 (4) (b) Of information submitted by health care providers that are not  
22 hospitals or ambulatory surgery centers, patient-identifiable data that contains a  
23 patient's date of birth may be released under this subsection only under  
24 circumstances as specified by rule by the department.

25 **SECTION 2280ku.** 153.50 (5) (a) (intro.) of the statutes is amended to read:

1           153.50 (5) (a) (intro.) The department may not release or provide access to  
2   patient-identifiable data to a person authorized under sub. (4) (a), ~~(e), (d) or (e)~~  
3   unless the authorized person requests the department, in writing, to release the  
4   patient-identifiable data. The request shall include all of the following:

5           **SECTION 2280kv.** 153.50 (5) (a) 3. of the statutes is amended to read:

6           153.50 (5) (a) 3. For a person who is authorized under sub. (4) (a), ~~(e) or (d)~~ to  
7   receive or have access to patient-identifiable data, evidence, in writing, that  
8   indicates that authorization.

9           **SECTION 2280kw.** 153.50 (5) (a) 4. (intro.) of the statutes is amended to read:

10          153.50 (5) (a) 4. (intro.) For an entity that is authorized under sub. (4) ~~(e)~~ (a)  
11   4. to receive or have access to patient-identifiable data, evidence, in writing, of all  
12   of the following:

13          **SECTION 2280kx.** 153.50 (5) (b) 3. of the statutes is amended to read:

14          153.50 (5) (b) 3. For a person who believes that he or she is authorized under  
15   sub. (4) (a), the action provided under s. 19.37.”

16          **4.** Page 1170, line 22: after that line insert:

17          **“SECTION 2280p.** 153.50 (6) of the statutes is renumbered 153.50 (6) (a).

18          **SECTION 2280q.** 153.50 (6) (b), (c), (d) and (e) of the statutes are created to read:

19          153.50 (6) (b) The department may not require under this chapter a health care  
20   provider that is a hospital or ambulatory surgery center to submit uniform patient  
21   billing forms.

22          (c) A health care provider that is not a hospital or ambulatory surgery center  
23   may not submit any of the following to the department under the requirements of  
24   this chapter:



- 1           1. The data elements specified under sub. (3) (b).
- 2           2. The patient's telephone number.
- 3           3. The insured's employer's name or school name.
- 4           4. Data regarding insureds other than the patient, other than the name of the
- 5 insured's payer or other insured's payer.
- 6           5. The patient's employer's name or school name.
- 7           6. The patient's relationship to the insured.
- 8           7. The insured's identification number.
- 9           8. The insured's policy or group number.
- 10          9. The insured's date of birth or sex.
- 11          10. The patient's marital, employment or student status.

12           (d) If a health care provider that is not a hospital or ambulatory surgery center  
13 submits a data element that is specified in par. (c) 1. to 10., the department shall  
14 immediately return this information to the health care provider or, if discovered  
15 later, shall remove and destroy the information.

16           (e) A health care provider may not submit information that uses any of the  
17 following as a patient account number:

- 18          1. The patient's social security number or any substantial portion of the
- 19 patient's social security number.
- 20          2. A number that is related to another patient identifying number.

21           **SECTION 2280r.** 153.55 of the statutes is amended to read:

22           **153.55 Protection of health care provider confidentiality.** ~~Health care~~  
23 ~~provider identifiable data~~ Data obtained under this chapter is not subject to  
24 inspection, copying or receipt under s. 19.35 (1).".

1       **5.** Page 1172, line 14: after that line insert:

2       “**SECTION 2283g.** 153.67 of the statutes is created to read:

3       **153.67 Privacy institutional review board.** The privacy institutional  
4 review board shall review any request under s. 153.45 (1) (c) for data elements other  
5 than those available for public use data files under s. 153.45 (1) (b). Unless the  
6 privacy institutional review board approves such a request, the data elements  
7 requested may not be released.

8       **SECTION 2283h.** 153.76 of the statutes is created to read:

9       **153.76 Rule-making by the privacy institutional review board.**

10      Notwithstanding s. 15.01 (1r), the privacy institutional review board may  
11 promulgate only those rules that are first reviewed and approved by the board on  
12 health care information.

13      **SECTION 2283k.** 153.90 (1) of the statutes is amended to read:

14      **153.90 (1)** Whoever intentionally violates s. 153.45 (5) or 153.50 or rules  
15 promulgated under s. 153.75 (1) (a) may be fined not more than ~~\$10,000~~ \$15,000 or  
16 imprisoned for not more than ~~9 months~~ one year or both.”.

17      **6.** Page 1526, line 5: after that line insert:

18      “(12x) INITIAL APPOINTMENTS OF PRIVACY INSTITUTIONAL REVIEW BOARD.

19      Notwithstanding the length of terms specified in section 15.195 (9) (intro.) of the  
20 statutes, as created by this act, the initial members of the privacy institutional  
21 review board shall be appointed by the first day of the 4th month beginning after the  
22 effective date of this subsection for the following terms:

23      (a) The purchaser of health care, for a term expiring on May 1, 2001.

1 (b) The medical ethicist and the privacy expert, for terms expiring on May 1,  
2 2003.

3 (c) The statistician or researcher, for a term expiring on May 1, 2005.”

**4 (END)**